IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLAE SIDE

Writ Petition No. 4026 of 2007

Lasalgaon Vibhag Sahakari
Kharedi Vikri Sangh Ltd. ..Petitioner

vs.

1.The Asstt.Registrar
Cooperative Societies & Ors. ..Respondents

Shri A.S.Desai for petitioner.
Shri P.P.Kakade, A.G.P. for respondent nos.1, 2 and 6.

CORAM: S.C.DHARMADHIKARI J.
4th **July, 2007**

P.C.

1. The petitioner society removed the Managing Committee members on the ground that they had incurred disqualification under Rule 58(2) of the Maharashtra Cooperative Societies Rules, 1961. That action was subject matter of challenge at the instance of the members and the Asstt.Registrar Cooperative Societies, Niphad, District Nashik has held that the decision of the society is without any authority of law in as much as the concerned persons have not been declared as defaulters. There is no adjudication in that behalf. That order of the Asstt.Registrar was challenged by the Society in Revision Petition No.89 of 2006 and the Divisional Joint Registrar having upheld the same by the impugned order, the petitioner society is before me invoking my writ

jurisdiction.

2. The only contention raised by Shri Desai is that the aggrieved persons have no right to approach the Asstt.Registrar in as much as they had the remedy of filing a Dispute under sec.91 before the competent Cooperative Court. That was the only remedy available to them in law. Asstt.Registrar had no jurisdiction to entertain their grievance.

3. Be that as it may, on facts, it has been concurrently observed that the pre-requisite for initiating action has not been satisfied in the present case. In para 11 of the impugned order, the Joint Registrar has observed that C.E.O. of the society issued letter dated 22nd August, 2006 informing the concerned Managing Committee members that they have incurred disqualification under sec.73FF of Maharashtra Cooperative Societies Act, 1960. Hence, they cease to be the Managing Committee members. It has been observed by the Joint Registrar that powers under the Maharashtra Cooperative Societies Act of removal are vested only with the Registrar and unless action under sec.78 of the Act is initiated there is nothing like an automatic cessation. That no order under sec.78 has been passed is not disputed by Shri Desai. That is settled position in law and reference has been made by both the authorities to the decisions of this Court in that behalf.

Having observed that mandatory pre-requisites are not satisfied for invoking the powers to disqualify the Managing Committee Members and to remove them, I do not wish to enter into any larger controversy. More so, when the factual position remains undisputed. As to whether the Asstt.Registrar would have jurisdiction to interfere with the action of disqualification or removal or not is a matter which can be gone into and decided in an appropriate case. That aspect is expressly left open. I am of the view that the findings of fact are not vitiated by any error apparent nor can be termed as perverse. Hence, the writ jurisdiction is not available to the petitioner. Petition is summarily dismissed.

(S.C.DHARMADHIKARI J.)